

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MALIK FRYAR,

Plaintiff,

-against-

Case No. 10-CV-5879 (TLM)

POLICE OFFICER ROBERT ZHEN, POLICE  
OFFICER MATTHEW KOKORUDA, POLICE  
OFFICER TYLER KALMAN AND POLICE  
OFFICER PETER KESSLER,

Defendants.  
  
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**PLAINTIFF'S PROPOSED JURY VERDICT FORM**

**1. Did defendants prove by a preponderance of evidence that they had probable cause to arrest plaintiff?**

Yes \_\_\_\_\_

No \_\_\_\_\_

If you answered "Yes," go to question 2.

If you answered "No," state the amount of compensatory or nominal damages you award plaintiff for his false arrest claim: \$ \_\_\_\_\_

**2. Did plaintiff prove by a preponderance of evidence that any defendant used excessive force against him or commit an assault and battery against him or failed to intervene in the use of excessive force or the commission of an assault and battery?**

Yes \_\_\_\_\_

No \_\_\_\_\_

If you answered "No," go to question 3.

If you answered "Yes," which defendant(s) used excessive force or committed an assault and battery or failed to intervene?

Officer Robert Zhen \_\_\_\_\_

Officer Matthew Kokoruda \_\_\_\_\_

Officer Tyler Kalman \_\_\_\_\_

Officer Peter Kessler \_\_\_\_\_

If you answered "Yes," state the amount of compensatory or nominal damages you award plaintiff for his excessive force and assault and battery claim: \$ \_\_\_\_\_

**3. Do you award plaintiff punitive damages?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If you answered "Yes," state the amount of punitive damages you award plaintiff for each defendant?

Officer Robert Zhen \_\_\_\_\_  
Officer Matthew Kokoruda \_\_\_\_\_  
Officer Tyler Kalman \_\_\_\_\_  
Officer Peter Kessler \_\_\_\_\_

*If you answered "No" to question 1, please answer Questions 4a, 4b, and 4c. If you answered "Yes" to question 1, stop, you have reached a verdict. Please have the foreperson date and sign the verdict sheet and tell the Court Security Officer you have reached a verdict.*

**4a. Did plaintiff make a hand gesture that mimicked firing a gun?**

Yes \_\_\_\_\_ No \_\_\_\_\_

**4b. Did plaintiff stand in the street impeding the flow of vehicular traffic?**

Yes \_\_\_\_\_ No \_\_\_\_\_

**4c. Did plaintiff resist arrest?**

Yes \_\_\_\_\_ No \_\_\_\_\_

*Please have the foreperson date and sign the verdict sheet and tell the Court Security Officer you have reached a verdict.*

\_\_\_\_\_  
FOREPERSON

September \_\_, 2011  
Brooklyn, New York

**DEFENDANTS' PROPOSED JURY VERDICT FORM**

**1. Did defendants have probable cause to arrest plaintiff?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If you answered "Yes," go to question 2.

If you answered "No," state the amount of compensatory or nominal damages you award plaintiff for his false arrest claim: \$ \_\_\_\_\_

**2. Did any defendant use excessive force in effectuating the arrest of plaintiff?**

Yes \_\_\_\_\_ No \_\_\_\_\_

If you answered "Yes," which defendant(s) used excessive force in effectuating the arrest of plaintiff?

Officer Robert Zhen	Yes _____	No _____
Officer Matthew Kokoruda	Yes _____	No _____
Officer Tyler Kalman	Yes _____	No _____
Officer Peter Kessler	Yes _____	No _____

If you answered "Yes," state the amount of compensatory or nominal damages you award plaintiff for his excessive force claim: \$ \_\_\_\_\_

*If you answered "No" to question 1, please answer Questions 3a, 3b, and 3c. If you answered "Yes" to question 1, stop, you have reached a verdict. Please have the foreperson date and sign the verdict sheet and tell the Court Security Officer you have reached a verdict.*

**3a. Did plaintiff make a hand gesture that mimicked firing a gun?**

Yes \_\_\_\_\_ No \_\_\_\_\_

**3b. Did plaintiff stand in the street impeding the flow of vehicular traffic?**

Yes \_\_\_\_\_ No \_\_\_\_\_

**3c. Did plaintiff resist arrest?**

Yes \_\_\_\_\_ No \_\_\_\_\_

*Please have the foreperson date and sign the verdict sheet and tell the Court Security Officer you have reached a verdict.*

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FOREPERSON

September \_\_, 2011  
Brooklyn, New York